

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates:

Individual Case No.  
0:17-cv-00350

**PLAINTIFF(S)**

**WALTER SANDERS**

**VS.**

**3M COMPANY AND ARIZANT  
HEALTHCARE, INC.**

**RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION TO DISMISS**

NOW COMES Plaintiff, Walter Sanders, identified in Defendants’ Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 637], and by and through undersigned counsel submits this, his Response to Defendants’ Motion to Dismiss, and would respectively show the Court the following:

1. In September 2015, Mr. Sanders contacted the undersigned counsel regarding an infection and subsequent treatment that he experienced, allegedly caused by the use of a Bair Hugger patient warming device during an orthopedic surgery.

2. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicate that a Bair Hugger device was used during the original surgery.

3. On February 27, 2017, counsel filed the current action in this Court pursuant to the Court's Pretrial Order No. 5.

4. Efforts to contact Mr. Sanders to inform him of the Plaintiff Fact Sheet and other necessary steps of the litigation after filing this action were unsuccessful, including phone calls on the following dates:

3/23/2017

5/16/2017

6/8/2017

6/9/2017

8/4/2017

5. Additionally, letters were sent to Mr. Sanders on the following dates requesting his response to complete the Plaintiff Fact Sheet and warning that failure to comply would result in dismissal of his case.

2/1/2017

5/16/2017

6/8/2017

7/12/2017

6. To date, the undersigned counsel has not been able to obtain the necessary information to comply with the requirements set forth by the Court's Pretrial Order No. 14.

7. However, to be precise, the undersigned counsel is without any knowledge of circumstances that may preclude Plaintiff from responding to the counsel's contact attempts and efforts or completing the Plaintiff Fact Sheet. In light of the foregoing, the undersigned counsel respectfully seeks a 120-day extension on the Pretrial Order No. 14. Nevertheless,

if the Court deems dismissal of the Plaintiff's action to be proper, then it should be dismissed without prejudice granting an opportunity for Plaintiff to reinstate the action.

Dated: 8/11/17

Respectfully submitted,

s/Tayjes Shah

Tayjes Shah, Esq.  
The Miller Firm, LLC  
108 Railroad Ave.  
Orange, VA 22960  
P: 540-672-4224  
Email: [tshah@millerfirmllc.com](mailto:tshah@millerfirmllc.com)

#### CERTIFICATE OF SERVICE

This is to certify that on August 11, 2017 a copy of the foregoing document was served on all parties via the Court's electronic filing system.

Respectfully submitted,

s/Tayjes Shah

Tayjes Shah, Esq.  
The Miller Firm, LLC  
108 Railroad Ave.  
Orange, VA 22960  
P: 540-672-4224  
Email: [tshah@millerfirmllc.com](mailto:tshah@millerfirmllc.com)